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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/991,979	11/26/2001	Ewa Kolby-Falk	000500-271	4292

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Ronald L. Grudziecki, Esq.
BURNS, DOANE, SWECKER & MATHIS, L.L.P.
P.O. Box 1404
Alexandria, VA 22313-1404

EXAMINER

REICHLE, KARIN M

ART UNIT	PAPER NUMBER
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3761

DATE MAILED: 10/19/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/991,979	Applicant(s) KOLBY-FALK, EWA	
	Examiner Karin M. Reichle	Art Unit 3761	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 July 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-16 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 22 July 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Specification

Drawings

1. The drawings were received on 7-22-05. These drawings are approved by the Examiner. However see remaining informalities in the drawings set forth in the following paragraphs.

2. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the absorption body having an absorption part of dehydrated hydrogel, i.e. prior to swelling, as claimed in all the claims (Note the sentence of paragraph 19 bridging pages 5-6 and paragraph 49 on page 16, lines 5-7as well as the discussion infra), and the porous medium as claimed in claims 5-8 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an

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application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

3. The drawings are objected to because the description of the Figures in paragraph 31 and the Figures are not consistent, i.e. the Figures show the product after wetting and swelling but the descriptions thereof do not describe such. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Description

4. The disclosure is objected to because of the following informalities: in paragraph 16, “(6)” should be deleted. In paragraph 33, line 3, “109” should be --107--. In paragraph 38, line 1, “liquid-permeable” should be --liquid-impermeable--. The specification appears to disclose at, e.g., paragraphs 19 and 49, that the product has two states, one prior to wetting in which the absorption body has an essentially planar form located between the two casing layers and one after wetting in which a portion of the absorption body swells to form a raised or elevated portion which extends through an opening in the permeable casing layer such that the absorption body is no longer only between the casing layers. However, the description, both textual and pictorial, does not clearly distinguish between the two states throughout thereof as already discussed supra with respect to the drawings. A clear, complete, consistent description throughout the specification, both textual and pictorial, of the product and its two states should be set forth.

Appropriate correction is required.

Claim Objections

5. Claims 1-16 are objected to because of the following informalities: in claims 1 and 15, last line, “the” (both) should be --a--. In claim 16, second to last line, “, wherein...a hydrogel” should be deleted. Appropriate correction is required.

Claim Rejections - 35 USC § 112

6. Claims 1-16 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 now requires not only a absorption body including the preformed dehydrated hydrogel absorption part between the top and bottom sides but that such hydrogel swells when wetted and that the swollen hydrogel adheres to the body of the user. However, it is unclear how such is possible if the absorption body, and thereby hydrogel, is between the top and bottom sides. This also applies to similar language in the last section of claim 15 and claim 16. See the discussion supra. Also, in regard to claim 2, is the sticky surface in this claim and the hydrogel in claim 1 one and the same, i.e. how many elements at a minimum are capable of sticking to the user?

Claim Language Interpretation

7. Claim 15 still does not invoke 35 USC 112, sixth paragraph, because it does not employ proper “means plus function” form and/or includes a recitation of sufficient specific structure to perform the claimed function. It is noted that claims 1 and 15-16, as best understood, do not require the absorption part, expanding means or absorption body to be entirely formed of a hydrogel nor consist of the elevation portion. Due to the lack of clarity discussed supra, claim 1, as best understood, is interpreted to require an absorption body having a first state in which the absorption body comprising an absorption part formed by a preformed, dehydrated hydrogel has an essentially planar shape between the top and bottom sides and a second state when wetted

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wherein as a result of the performing, the absorption part comprises a section which swells in the thickness direction to form an elevation portion which extends through an opening in the liquid permeable top side such that the hydrogel thereof adheres to a body of a user. Therefore, claim 2, as best understood, and claim 1, as best understood, appear to claim the same thing. Due to the lack of clarity discussed supra, claim 15, as best understood, is interpreted to require an absorption means having a first state in which the absorption means which comprises an expanding means formed by a preformed, dehydrated hydrogel has an essentially planar shape between the liquid permeable and liquid impermeable means and a second state when wetted wherein as a result of the performing, the expanding means comprises a section which swells in the thickness direction to form an elevation portion which extends through an opening in the liquid permeable means such that the hydrogel thereof adheres to a body of a user. Due to the lack of clarity discussed supra, claim 16, as best understood, is interpreted to require an absorption body having a first state in which the absorption body formed from preformed, dehydrated hydrogel has an essentially planar shape between the liquid permeable and liquid impermeable portions and a second state when wetted and positioned on clothing of a user wherein as a result of the performing, the absorption body swells in the thickness direction to form a raised portion which extends through an opening in the liquid permeable portion such that the hydrogel thereof adheres to the body of the user.

Allowable Subject Matter

8. The claims as best understood, see the interpretation in the preceding paragraph, define over the prior art references of record, either alone or in combination. The Kolby Falk '813 claims having the same effective filing date as the instant claims are distinguishable from the instant claims as best understood as the absorption part of the '813 is not essentially planar in a first state but rather has a spoon shape, i.e. a cup shape in a forward portion in the first state.

Response to Arguments

9. Applicant's remarks have been considered but are deemed moot since the issues discussed have not been reraised. It is noted that if claim 2 is the same as claim 1 as noted supra in the Claim Language Interpretation sectionsupra, such should be cancelled.

Conclusion


10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The Cartmell reference appears to teach all the claimed structure andfunction except that the hydrogel thereof does not adhere to the body.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Karin M. Reichle whose telephone number is (571) 272-4936. The examiner can normally be reached on Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tanya Zalukaeva can be reached on (571) 272-1115. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Karin M. Reichle
Primary Examiner
Art Unit 3761

KMR
October 16, 2005